

JUL 13 1998

Before the
Federal Communications Commission
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
) CC Docket No. 95-155
Toll Free Service Access Codes) NSD File No. L-98-85

**RESPONSE OF AMERITECH, BELL
ATLANTIC, SBC AND U S WEST**

The telecommunications industry as a whole, as represented in the North American Numbering Council, is in broad general agreement that there is no need to change the existing system for reserving and activating toll-free telephone numbers. This system, commonly referred to as SMS/800 service, has served the industry well since the local exchange carriers introduced 800 database access in the early 1990's. In order to ensure "that SMS access be provided on a nondiscriminatory basis and at reasonable rates," the Commission required the Bell companies to provide this service under tariff,¹ and they have done so, with nary a complaint from the industry, since the implementation of database access in 1993.

This system has worked well, and the undersigned Bell companies urge the Commission not to change it. Any customer who wants a toll-free number simply contacts one of more than 200 "Responsible Organizations" or "RespOrgs" that use SMS/800 service. Any entity meeting certain specified criteria can qualify as a RespOrg.

¹ *Provision of Access for 800 Service*, 8 FCC Rcd 1423 ¶ 29 (1993) ("Comptel Order").

For example, a RespOrg can be an interexchange carrier, a local telephone company, a wireless carrier, a large organization or even an individual. The RespOrg accesses the SMS/800 system and reserves a toll free number from among the pool of available numbers, and the SMS/800 system updates regional toll-free database tables with the information needed to deliver calls to the correct carrier. The SMS/800 system is not involved in processing telephone calls, and that system does not permit the Bell companies to exercise any discretion in the assignment of toll-free telephone numbers.

Apparently unable to stand broad industry consensus with something that's working right, MCI now files 30 pages of complaints, allegations and insinuations and says that this system is now, and always was, improper, discriminatory and anticompetitive.² This is the same MCI which stated in 1992 that tariffing SMS/800 service would "ensure that the rates, terms and conditions for SMS/800 access are reasonable and nondiscriminatory."³

First, MCI's basic complaint is that the Bell companies control SMS/800 access service and that these companies make all the decisions about that service.⁴ This fact should hardly be surprising, as it is the Bell companies which provide and are responsible

² Sprint expresses concern over certain aspects of the current system, but does not claim that it is illegal or that it should be changed in any fundamental way.

³ *E.g.*, MCI's Comments on Comptel's Petition for Expedited Declaratory Ruling at 3-4, CC Docket 86-10, dated July 10, 1992.

⁴ *E.g.*, MCI at 9.

for the service, and the decisions that they make about their service are just like those that MCI makes about the various services it provides. Moreover, everybody understood that this was the way it was going to be. When the Commission required that SMS/800 access be tariffed, it recognized that "[t]he BOCs and Bellcore will retain general control over this operation, including the establishment of rates and SMS software development."⁵

MCI's complaints about not having a greater voice in the management of SMS/800 access should be given particularly little weight in light of the fact that the Bell companies offered MCI a greater role and MCI turned them down. In 1992, the Bell companies proposed that SMS/800 be put under the management of a not-for-profit corporation with an industry-wide board of directors.⁶ MCI, however, was not interested.⁷

MCI contends that section 251(e) of the Act requires the Commission to change the existing arrangements.⁸ This is not correct. The Act requires that number administration be done impartially. Although MCI indicates that there is some dispute in the industry over what constitutes number administration,⁹ the one thing that should be

⁵ *Comptel Order* ¶ 30. In fact, the entire structure of the SMS/800 service that MCI attacks throughout its comments was described and implicitly approved by the Commission in this and the preceding paragraph.

⁶ See *Comptel Order* ¶ 28 (1993); Response [of the Bell Companies] to Comptel Petition for Declaratory Ruling at 8 (July 10, 1992).

⁷ As the Bell companies have now invested six more years of time and resources in this service, it would be particularly inappropriate to require them to turn it over to other carriers.

⁸ MCI at 18-20.

⁹ MCI at 13-15.

clear is that the existing, tariffed SMS/800 access arrangements are, in fact, impartial. It was to ensure this result that the Commission imposed the tariffing requirement in the first place.¹⁰ And in this regard, the Commission's decision has been a success — as the Chief of the Common Carrier Bureau recognized, no party has ever “alleged specific acts of discrimination by the BOCs or Bellcore in connection with the 800 database.”¹¹ And even MCI today, in spite of its 30 pages of rhetoric, alleges no specific bad acts by anyone.

MCI also argues that the Bell companies will not be able to meet the requirements of section 271 as long as the existing arrangements are in place.¹² That assertion is frivolous. Section 271(c)(2)(B)(ix) requires a Bell company to comply with the Commission's guidelines, plans or rules for number administration. The Commission has ordered the Bell companies to offer SMS/800 and to do so pursuant to tariff. Obeying this Commission order satisfies section 271.

The relief MCI appears to seek is that the Commission require the Bell companies to auction off the SMS/800 and the individuals who manage it, the 800 Service Management Team, to a buyer who is not a carrier or otherwise aligned with any segment

¹⁰ *Comptel Order* ¶¶ 29-31.

¹¹ Letter from Kathleen M.H. Wallman, Chief, Common Carrier Bureau, to James S. Blaszak, Gardner Carton & Douglas, *et al.* at 2 (June 21, 1995) (“Wallman Letter”).

¹² MCI at 3.

of the industry.¹³ The Commission, of course, does not have the authority to require the Bell companies to sell off particular assets (let alone, of course, to auction off their employees). And the fact that the existing system is working well demonstrates conclusively that there is no reason to in the first place.

Finally, MCI's comments contains a dog's breakfast of random claimed "improprieties" in the Bell companies' management of SMS/800 service.¹⁴ All are without merit and irrelevant to the issue before the Commission:

- Some of them boil down to claims that the costs, and therefore the rates, for SMS/800 are "excessive and anticompetitive."¹⁵ If MCI had really wanted to pursue these claims, it has had many opportunities to do so in proceedings on the Bell companies' SMS/800 tariff filings. The facts, of course — that SMS/800 rates have been going down and the Bell companies have actually voluntarily paid refunds to the RespOrgs — are hardly consistent with "excessive and anticompetitive" prices.
- MCI is critical of the Bell companies' management for allowing the industry to run out of 800 numbers and requiring the Commission to allocate numbers until a new code could be opened.¹⁶ As the Commission well knows, this situation occurred because there was a run on 800 numbers in 1995, with some RespOrgs taking numbers for which they had no customers and warehousing them for future use. During this period, number reservation quadrupled, while there was no comparable increase in 800 traffic.¹⁷ In one of those weeks, one single RespOrg reserved more 800 numbers than the entire telecommunications

¹³ MCI at 5, 25.

¹⁴ MCI *passim*.

¹⁵ E.g., MCI at 3, 22-23.

¹⁶ MCI at 3.

¹⁷ See letter from Marie T. Breslin, Bell Atlantic, to Kathleen M.H. Wallman, dated June 5, 1995.

industry had been using in a typical week. This can hardly be blamed on the Bell companies.¹⁸

- MCI alleges that the Bell companies have access to and have misused confidential and competitively sensitive information in the SMS/800 system.¹⁹ Once again, MCI is wrong. RespOrgs generally do not put competitively sensitive information in the SMS/800 database, and to the extent any RespOrg does load any proprietary information, that information already is treated as confidential. Only that RespOrg and the neutral third-party administrator that maintains the help desk can get access to that information. MCI attaches a three-year-old letter from AT&T to DSMI,²⁰ but fails to attach the response (which is attached hereto) or to note that AT&T apparently was satisfied and took no further action.
- Another recurring complaint concerns the use of Southwestern Bell as the supplier of the SMS/800 data center.²¹ As indicated above, the Commission recognized this arrangement in 1993. Moreover, the Commission also investigated this subject at the behest of a disappointed bidder for that contract and concluded there was no evidence of wrongdoing in the selection of the vendor.²²

The NANC apparently was unpersuaded by MCI's parade of horrors, and the Commission should ignore them as well.

¹⁸ The Commission ultimately was forced to take steps to deter warehousing (in the Second Report and Order in this proceeding) so that this situation could not occur again.

¹⁹ MCI at 3.

²⁰ MCI at 22.

²¹ *E.g.*, MCI at 9-10.

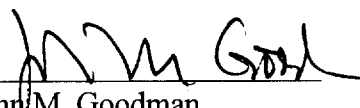
²² Wallman Letter at 2.

Conclusion

As MCI's own comments show,²³ the toll-free service marketplace has been booming ever since the Bell companies and other local exchange carriers introduced 800 database service under the arrangements MCI now attacks. The law does not require any change to this successful system. The Commission should confirm the conclusion of the NANC that there is no need to change the existing system for toll-free number reservation and assignment.

Respectfully submitted,

AMERITECH OPERATING COMPANIES
BELL ATLANTIC
SBC COMMUNICATIONS
US WEST COMMUNICATIONS

By 
John M. Goodman

Gary L. Phillips
1401 H Street, N.W.
Washington, D.C. 20005
Attorney for Ameritech
Operating Companies

²³

MCI at 7-8.

John M. Goodman
1300 I Street, N.W.
Washington, D.C. 20005
(202) 336-7874
Attorney for Bell Atlantic

Barbara Hunt
1401 I Street, N.W.
Washington, D.C. 20005
Attorney for SBC Communications

Katherine Marie Krause
1801 California Street
Denver, Colorado 80202
Attorney for U S WEST Communications

Dated: June 13, 1998

**Database
Service
Management
Inc.**

6 Corporate Place - Piscataway, NJ 08854-4157
Phone (908) 699-2100 • Fax (908) 336-3295

August 17, 1995

Lynn C. Haber, Esq.
Senior Attorney
AT&T
Room 323582
295 North Maple Avenue
Basking Ridge, NJ 07920

Re: Access to SMS/800 Database Information

Dear Ms. Haber:

I am in receipt of your letter of June 29, 1995 and wish to correct certain misimpressions contained in your letter. No proprietary information related to the FCC investigation has been released to any entity, Local Exchange Carrier (LEC) or otherwise.

The information provided to the FCC, as part of its inquiry into the 800 number exhaust issue, is available to every Responsible Organization that chooses to access the data. All of the information provided to the FCC as part of its investigation involved identification of the Responsible Organization and number status. This information is defined by the industry as non-proprietary data. Section 1.2 "General Responsibilities", page 2 of the Industry Guidelines of 800 Number Administration, Issue 4, June 8, 1995, states that:

"Non-proprietary information has been identified as: the 800 number, the Resp. Org identification, the status of the 800 number or Customer record in SMS/800, and the associated effective date and time of the Customer record."

Thus, contrary to the impression contained in your letter, DSMI is not aware of any proprietary information that was turned over to the FCC or to other Resp Orgs.

All of the information provided to the FCC as part of its investigation into the utilization of the 800 numbering resource was data gathered as a result of services provided through the 800 Service Management System (SMS/800) Functions F.C.C. Tariff No. 1, which was jointly filed by the seven (7) RBOCs. As such, all of the data provided to the FCC was data that the RBOCs,

as the parties responsible for the provision of SMS/800 services, would normally review as part

of the ongoing management and administration of the day-to-day operation of the SMS/800 software system.

Like AT&T, Database Service Management, Inc. (DSMI), is very concerned about the protection of proprietary information. We have implemented, with all of the Subcontractors involved in the provision of services from the 800 Service Management System, strict policies and procedures to assure the protection of proprietary information. We will not provide what the industry has deemed proprietary without first notifying you and seeking your consent.

Sincerely,

Michael J. Wade
Michael J. Wade

Copy to: Kathleen Wallman, FCC

CERTIFICATE OF SERVICE

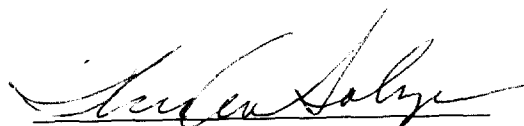
I, Therese Anne Salazar, do hereby certify that on this 13th day of July, 1998, copies of the foregoing "Response of Ameritech, Bell Atlantic, SBC and U S West " were delivered to the following parties in the manner indicated:

By Overnight Delivery:

Mary DeLuca
MCI Telecommunications Corp.
1801 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Leon M. Kestenbaum
1850 M St., N.W., Suite 1110
Washington, D.C. 20036

Norina T. Moy
1850 M St., N.W., Suite 1110
Washington, D.C. 20036


Therese Anne Salazar